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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	79150952
Applicant	Doomsday Supplies Pty Ltd
Applied for Mark	DOOMSDAY.
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Submission	Applicants Request for Remand and Amendment
Attachments	53536 App Motion for Remand.pdf(143281 bytes) Executed Consent Agreement.pdf(83197 bytes)
Filer's Name	Everett E. Fruehling
Filer's e-mail	efiling@cojk.com
Signature	/Everett E. Fruehling/
Date	05/27/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Domsday Supplies Pty Ltd

Mark: DOOMSDAY.
Serial No.: 79150952
Filing Date: March 19, 2015
Examining Attorney: Tracy L. Fletcher
Law Office 115

APPLICANT'S MOTION FOR REMAND

Pursuant to Sections 1207.02 and 1209.04 of the *Trademark Trial and Appeal Board Manual of Procedure*, Applicant, Domsday Supplies Pty Ltd hereby requests that the Trademark Trial and Appeal Board ("Board") suspend the appeal in connection with the above-referenced application and remand the application to the Examining Attorney to consider additional evidence in the nature of a consent agreement between Applicant and the owners of the cited registration.

REMARKS

Applicant believes that good cause for the remand exists because Applicant has obtained consent to register its mark from of the owner of the registration cited by the Examining Attorney in the Final Office Action. Applicant has obtained the written consent of the owner of the cited registration, and Applicant submits that this additional evidence constitutes good cause to remand the application for further examination. T.B.M.P. 1207.02.

Attached to this request for remand is an executed consent agreement signed by the owner of Registration No. 3945639. Reg. No. 3945639 was cited by the Examining Attorney as a bar to registration of Applicant's Application based on a likelihood of confusion under

Trademark Act Section 2(d). Applicant submitted arguments that there was no likelihood of confusion. The Examining Attorney made the refusal final and denied Applicant's request for reconsideration, and this appeal followed.

Applicant and the owner of the cited registration have determined that there is no likelihood of confusion between their respective marks as used in connection with their respective goods and services, and entered into the attached consent agreement.

Applicant respectfully submits that there is no likelihood of confusion between Applicant's mark as used in connection with the goods and services in Applicant's Application and the mark shown in Reg. No. 3945639. Applicant and the owner of the cited mark, Molly S. Roellich, have specifically agreed that confusion between the marks is not likely. Ms. Roellich has consented to Applicant's registration of the subject mark, as evidenced by the consent agreement submitted herewith.

In *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1363, 177 USPQ 563, 568 (C.C.P.A. 1973), the Court of Customs and Patent Appeals stated as follows:

[W]hen those most familiar with use in the marketplace and most interested in precluding confusion enter agreements designed to avoid it, the scales of evidence are clearly tilted. It is at least difficult to maintain a subjective view that confusion will occur when those directly concerned say it won't. A mere *assumption* that confusion is likely will rarely prevail against uncontroverted evidence from those on the firing line that it is not.

Elaborating on this, T.M.E.P. §1207.01(d)(viii) continues:

[t]he Court of Appeals for the Federal Circuit has made it clear that consent agreements should be given great weight, and that the Office should not substitute its judgment concerning likelihood of confusion for the judgment of the real parties in interest ... The examining attorney should give great weight to a proper consent agreement. The examining attorney should not interpose his or her own judgment concerning likelihood of confusion ...

Accordingly, Applicant requests that the Board suspend the appeal and remand the Application to the Examining Attorney for further consideration, and requests the Examining

Attorney withdraw the refusal to register Applicant's mark on the basis of a likelihood of confusion with Reg. No. 3945639, and approve Applicant's Application for publication.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

Dated: May 27, 2016

By: 

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CONSENT AGREEMENT

This Agreement is between Molly S. Roellich, a citizen of the United States (hereinafter referred to as "Registrant"), and Doomsday Supplies Pty Ltd, an Australian company having an address of 1/108 Moor St, Fitzroy, Victoria 3065, Australia (hereinafter referred to as "Applicant").

WHEREAS, Registrant owns U.S. Trademark Registration No. 3945639 for the mark **DOOMSDAY TACTICAL**;

WHEREAS, Applicant owns U.S. Trademark Application No. 79150952 for the mark **DOOMSDAY**;

WHEREAS, Registrant's goods are primarily used and marketed for hunting, survivalism, and emergency preparedness;

WHEREAS, Applicant's goods are primarily street wear, skateboarding clothing and apparel, and related accessories and services;

WHEREAS, Registrant has no objection to Applicant's use and registration of the trademark **DOOMSDAY**. in light of the differences between the marks, the differences between the goods offered by Registrant and the goods and services offered by Applicant in connection with its marks, the differences between the parties' respective channels of trade, and the differences in the parties' target markets; and

WHEREAS, the parties agree that there is no conflict or infringement caused by the use and registration of the marks **DOOMSDAY TACTICAL** and **DOOMSDAY**. in connection with their respective goods and services.

In order to avoid any possible conflict or confusion between the parties' use and registration of their respective marks, the parties agree as follows:

1. Registrant consents to Applicant's use and registration of the mark **DOOMSDAY**. in connection with "*Clothing, namely, tops, bottoms, dresses, sweaters, coats, socks, thongs, jeans, trousers, shorts, board shorts, bathing suits, tee shirts, jackets, jumpers, singlets, tank tops, underwear, ties, footwear and headwear; Beachwear; Casual clothing, namely, shorts, pants, shirts, jackets and skirts; Clothing for surfing, namely, swimwear and wetsuits; Swimwear; Hoods; Jackets; Men's clothing, namely, suits, coats, ties, gloves, shirts, pants, shorts and underwear*" in International Class 25; "*Retail and wholesale store services featuring clothing, footwear, headgear, watches, jewelry, coffee, beverages and food, and advisory, consultancy and information services relating thereto; Advertising and promotional services and advisory, consultancy and information services relating thereto; Business consultancy services in the fields of establishing and operating retail outlets, retail outlet group purchasing and advertising, and advisory, consultancy and information services relating thereto; Organization and management of incentive and loyalty schemes, namely, customer loyalty services and customer club services for commercial, promotional and/or*

advertising purposes, and advisory, consultancy and information services relating thereto; Business advice and consultancy relating to franchising, and advisory, consultancy and information services relating thereto" in International Class 35; and "*Cafes; cafe services; coffee shop services; providing food and drink; bar services; restaurant services; advisory, consultancy and information services for the foregoing*" in International Class 43.

2. Registrant intends to use its mark as **DOOMSDAY TACTICAL**; however, Applicant agrees it will not object to Registrant's use of DOOMSDAY so long as Registrant's use is limited to its current goods and markets, namely, for hunting, survivalism, and emergency preparedness.
3. Should the need arise, the parties will cooperate to take the steps necessary to prevent the possibility of customer confusion, arising not only from the use or registration of their respective marks, but also from third party uses of similar marks as well, whether authorized by either party or not.
4. The parties further agree to cooperate in any way necessary to effectuate and perfect the intent of this Agreement, including without limitation the further execution of consent or other similar documents as needed or required by the parties.
5. The parties recognize and agree that compliance with the above provisions will prevent conflict between the names and marks and preclude a likelihood of confusion or infringement in the marketplace.
6. This Consent Agreement may be executed and delivered in counterparts, and by each Party in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.
7. This Agreement is binding upon the parties hereto and their respective successors and assigns.

Molly S. Roellich

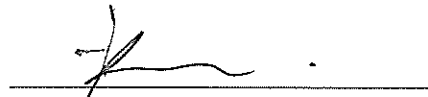


Name: Molly Roellich

Title: Trademark Owner

Date: 5/22/16

Doomsday Supplies Pty Ltd



Name: TRAVIS GARZONE

Title: DIRECTOR

Date: 26.5.16